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# *The BANKING DEPARTMENT NEWSLETTER*

[www.state.nh.us/banking](http://www.state.nh.us/banking)

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## **Newsletter**

The Banking Department is pleased to provide the first quarterly Newsletter. The Newsletter, published in March, June, September, and December, will be used to provide information that affects your industry at the state and national level. Every entity regulated by the department will receive the Newsletter.

The department would like to encourage electronic distribution of future newsletters so please email us at [newsletter@banking.state.nh.us](mailto:newsletter@banking.state.nh.us) and put "Newsletter" in the subject line. The Newsletter is also available on the department web site.

## **Banking Department**

The department is divided into two divisions - Banking and Consumer Credit. The Banking Division is responsible for the oversight of all state-chartered banks, credit unions, non-depository trust companies, and merchant banks. The Consumer Credit Division is responsible for the regulatory oversight of non-depository lenders and brokers that secure loans with NH real property, motor vehicles, and personal goods.



*Commissioner Hildreth (left) congratulating newly appointed Deputy Commissioner Fleury (right)*

## **Robert A. Fleury Appointed Deputy Bank Commissioner**

Bank Commissioner Peter C. Hildreth is pleased to announce the appointment of Robert A. Fleury as Deputy Bank Commissioner, effective August 14, 2002. Deputy Commissioner Fleury most recently served as Chief Bank Examiner for the department. He first came to the department in 1991 as an examiner and worked his way up through the ranks. During his career with the department, he has

commanded the respect and confidence of his fellow employees and the banking industry.

Deputy Commissioner Fleury holds a Bachelor of Science degree from the University of Maryland. He is also a graduate of the New England School of Banking at Williams College. Prior to coming to the department, Deputy Commissioner Fleury served in the United States Navy.

## **Interest on Escrow Accounts**

RSA 384:16-c and RSA 384:16-e, require the bank commissioner to set the interest rate for a 6-month period on February 1 and August 1 of each year for the payment of interest on escrow accounts maintained by banks and mortgage companies. The escrow accounts are used for the payment of taxes or insurance premiums related to loans secured by NH real estate mortgages. The escrow rate is posted on the department web site. The current rate is 0.54% and will be updated the last week of January and July for the next 6-month period.

## **PATRIOT ACT – OFAC – BSA**

If these three acronyms are unfamiliar to you, they will be very familiar soon enough. Final rules come on line October 25, 2002. These regulations impact all financial institutions as well as a number of other industries we regulate. In a nutshell all three require you to know more about your customer and how this information is used in meeting federal reporting requirements. Take some time to ensure that you understand the effects of these rules and regulations.

## **Web Site**

Check out the department web site. The site contains all the laws and rules for the entities we regulate. It also has forms available for downloading on licensing and consumer complaints as well as links to various sites of interest. A recent addition to the site is a FAQ page addressing consumer credit licensing questions. Check out the FAQ's at <http://webster.state.nh.us/banking/FAQs.pdf>.

## **BANKING DIVISION NEWS**

### **New Chief Bank Examiner**

Bank Commissioner Peter C. Hildreth is pleased to announce the promotion of Charles M. O'Connor to Chief Bank Examiner. Mr. O'Connor holds a Masters Degree in Business Administration, and has been an examiner with the department for over eight years. Prior to his employment with the department, Mr. O'Connor served proudly with the United States Army.

### **Annual Audits – Banks and Non-Depositories**

RSA 384:43-IV requires all state-chartered banks and non-depository institutions to file annual audit reports and engagement letters with the department within sixty days of receipt. To ensure compliance please include the department on the mailing list and inform the external auditor of this requirement with respect to the engagement letter.

### **Bylaw Amendments – Credit Unions**

Under RSA 394-B: 6 all amendments to credit union bylaws require the approval of the bank commissioner. In order to process the amendments the department requires the following: a copy of the board minutes detailing the board's approval of the amendment, signed by the Secretary; a complete set of the proposed bylaws, annotated; and a letter describing the amendment. Prior to approval all requests are reviewed for compliance with state and federal rules and regulations.

### **Quarterly Reporting – Credit Unions**

Beginning with the September 5300 filing, all credit unions (regardless of size) are required to file the full version of the 5300 report. After an initial review for accuracy, the department will forward the information on to the NCUA. The 5300 can be filed with the department via email by sending it to [dallen@banking.state.nh.us](mailto:dallen@banking.state.nh.us).

### **Semi-Annual Reporting – Non-Depositories and Bank Trust Departments**

All non-depository trust companies and banks with trust departments (regardless of size) are required to file a complete Form RC-T with the department with the June and December filings. The department utilizes the June numbers in calculating the annual assessment and for off-site monitoring of the trust area.

## **CONSUMER CREDIT DIVISION NEWS**

### **Applications Are Due**

A reminder to all holders of a first mortgage banker, first mortgage broker, second mortgage home loan lender, or a sales finance license, your license expires on December 31, 2002. You must submit a complete application package to obtain a license for license year 2003. The department recommends that all applications be submitted early. Application forms may be downloaded from the department web-site, along with a checklist that can assist you in preparing the application.

### **New Administrative Rule**

The department has implemented a new administrative rule, Ban 2409.02. The rule requires all licensees who have exclusive contracts with independent agents and originate first mortgage loans to file a form that contains the names, tax identification numbers, and business addresses of the agents with the department.

The department provided a copy of the form with the July 18, 2002 Regulatory Notice. Additional copies are available upon request. Licensees can file electronically with an Excel spreadsheet that is available on the department web site. It is line item "Ban 2409.02 Independent Contractor Filing Requirement" under the Consumer Credit section.

### **Employee or Independent Contracted Agent**

The department has received numerous inquiries concerning the definition of an independent contracted agent. The department elected to follow the rules of the Internal Revenue Service (IRS) for distinguishing an independent agent.

The IRS utilizes many factors in determining an employee's status, including training, hiring, supervision, job location, work hours, expenses, and payment. Employers are directly accountable for the actions of employees. In addition, employers have limited accountability over the actions of independent contractors. A simple rule of thumb is a W-2 indicates an employee and a 1099 filing indicates an independent contracted agent.